

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MANUEL SANABRIA,

Petitioner,

v.

SEAN MEDEIROS,

Respondent.

Civil Action No. 1:17-cv-12130-PBS

REPORT AND RECOMMENDATION ON RESPONDENT'S
MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

[Docket No. 12]

July 20, 2018

Boal, M.J.

On October 30, 2017, Manuel Sanabria filed, pro se, a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Docket No. 1 (the "Petition"). Respondent Sean Medeiros moves to dismiss the Petition. Docket No. 12.¹

For the following reasons, the undersigned Magistrate Judge recommends that the District Judge ALLOW the Respondent's motion to dismiss unless Sanabria, within thirty (30) days, deletes Ground Three in the Petition. If he deletes that ground, the undersigned Magistrate Judge recommends that the Court consider the first two grounds on the merits. If he does not

¹ On November 17, 2017, Judge Saris referred this case to the undersigned for full pretrial case management and a report and recommendation on dispositive motions. Docket No. 10.

9/15/18 I adopt the report and recommendation and deny the petition without prejudice because the exhausted claim was not struck. Paul Saris